

Decision 06-06-025 June 15, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Pacific Gas and Electric Company (U 39 E) for a Certificate of Public Convenience and Necessity Authorizing the Construction of the Jefferson-Martin 230 kV Transmission Project.

Application 02-09-043  
(Filed September 30, 2002)

**OPINION DENYING PETITION FOR MODIFICATION  
BY CALIFORNIANS FOR RENEWABLE ENERGY OF DECISION 06-04-018**

Decision (D.) 06-04-018 awarded intervenor compensation to three parties for their substantial contributions to D.04-08-046, the Jefferson-Martin transmission certification proceeding. Californians for Renewable Energy (CARE), one of the three parties, was awarded \$126,713.40. CARE filed a petition to modify D.06-04-018 on April 17, 2006. In the petition, CARE requests the hourly compensation rate for its lead counsel, Stephan Volker, be increased from \$270, the adopted amount in the decision, to \$400. All of Volker's work was performed in 2004. Adopting a \$400/hour rate for Volker would increase the total award by \$5,872.

As required by Pub. Util. Code § 1806, D.06-04-018 considered whether the claimed intervenor fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. In Resolution ALJ-184, we set forth guidelines and principles for setting intervenors' hourly rates for work performed in 2004. In D.05-11-031, we set forth guidelines and principles for setting 2005 rates, and found that rates

previously adopted in 2003 and 2004 are reasonable. Resolution ALJ-184 deems an increase of 8% above previously adopted 2003 rates as reasonable for work performed in 2004. We previously adopted a rate of \$250 for Volker for work performed in 2000-2003.<sup>1</sup> Increasing Volker's 2003 rate by 8% results in the \$270 rate adopted in D.06-04-018 for his 2004 work.

We recognize the guidelines and principles set forth in Resolution ALJ-184 and D.05-11-031 primarily envision intervenor representatives who participate regularly and have received regular hourly rate adjustments; the guidelines and principles may be quite constraining for intervenor representatives who have had no recent adjustments in their hourly rates. In Volker's case, for example, D.06-04-018 constrains him to one 8% increase for a five-year period (2000-2004). It may be appropriate to allow veteran representatives, under some circumstances, to make the same showing regarding their reasonable rate that we would allow a representative new to our proceedings. However, we refer this issue for consideration in our current efforts (now underway) to develop hourly rates applicable to intervenors' work performed in 2006. We decline to make piecemeal adjustments to Resolution ALJ-184 and D.05-11-031, which is essentially what CARE's request would require of us.

We therefore find that the \$270/hour rate awarded to Volker in D.06-04-018 complies with existing Commission directives, and we deny the petition for modification.

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<sup>1</sup> D.05-02-003 and D.03-01-058.

### **Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure (Rules), we waive the otherwise 30-day comment period for this decision.

### **Assignment of Proceeding**

Dian M. Grueneich is the Assigned Commissioner, and Charlotte F. TerKeurst is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. Stephan Volker was lead counsel for CARE in this proceeding.
2. Volker's work in this proceeding was performed in 2004.
3. D.06-04-018 adopted an hourly rate for Volker of \$270.
4. Volker's rate was found reasonable in consideration of the guidelines in Resolution ALJ-184 for setting 2004 hourly rates.
5. The hourly rate guidelines in Resolution ALJ-184 and D.05-11-031 are being reviewed generically in connection with establishing hourly rates for 2006 work.

### **Conclusions of Law**

1. Generic modifications, as appropriate, to the Commission's hourly rate guidelines and principles are preferable to piecemeal adjustments.
2. The petition for modification filed by CARE to increase the hourly compensation rate adopted in D.06-04-018 for attorney Stephan Volker to \$400 should be denied, effective immediately.
3. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.
4. This proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The petition for modification filed on April 17, 2006 in this proceeding by Californians for Renewable Energy is denied.
2. The comment period for today's decision is waived.
3. Application 02-09-043 is closed.

This order is effective today.

Dated June 15, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners